

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

COLORADO STATE CAPITOL
200 EAST COLFAX AVENUE SUITE 091
DENVER, COLORADO 80203-1716

TEL: 303-866-2045 FAX: 303-866-4157

EMAIL: OLLS.GA@STATE.CO.US

MEMORANDUM¹

TO: Statutory Revision Committee

FROM: Jason Gelender, Office of Legislative Legal Services

DATE: March 4, 2022

SUBJECT: Technical corrections to statutes relating to requirements for electronic filing of reports and returns for certain charges with the department of revenue and electronic payment of certain charges to the department of revenue.

Summary

The Office of Legislative Legal Services proposes that the Statutory Revision Committee (SRC) introduce legislation to correct technical defects relating to: (1) requirements for electronic filing of reports and returns for certain taxes and fees with the Department of Revenue (department); and (2) payment of certain taxes and fees to the department. The proposed draft bill corrects these technical defects. With one exception, the department brought these technical defects to the attention of SRC staff, and representatives of the department will be available to answer any questions that the members of the SRC may have at the meeting on March 11, 2022.

Analysis

Current law: (1) requires electronic filing of reports and returns for certain taxes and fees that are filed with the department and electronic payment of certain taxes and fees to the department; and (2) authorizes the department to require electronic filing of

¹ This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

reports and returns for other taxes and fees that are filed with the department and to require electronic payment of other taxes and fees to the department. During the 2021 legislative session, the General Assembly enacted legislation that created several new charges and altered the manner in which the department administers motor fuel taxes. The various bills created several defects and inconsistencies in the statutes that govern electronic filing of reports and returns for certain taxes and fees with the department and payment of certain taxes and fees to the department.

1. Prepaid wireless 988 charge.

During the 2021 legislative session, the General Assembly enacted S.B. 21-154, which created a new prepaid wireless 988 charge, but did not explicitly authorize the department to require electronic filing and payment of the charge as it does for the preexisting prepaid wireless 911 and prepaid wireless telecommunications relay service charges. This appears to have been an oversight because the three charges are all collected by sellers of prepaid wireless telecommunications services from purchasers of such services in the same manner. The inability to require the same filing and payment process for all three of the charges creates inconsistencies and inefficiencies in the administration of the fees.

2. Retail delivery fees.

During the 2021 legislative session, the General Assembly enacted S.B. 21-260, which created new retail delivery fees. The bill explicitly authorized the department to require that retail delivery fee returns be filed electronically, but did not include the typical language "and payment required to be made" to authorize the department to require payments of the retail delivery fees to be made electronically. This again creates an inconsistency in how the fees are administered relative to other, similar fees.

3. Motor fuel fees.

S.B. 21-260 also created new motor fuel fees, which will be collected at the same time and in the same manner as preexisting motor fuel taxes under an existing motor fuel tax and fee agreement. But the bill required only that the new fee reports be electronically filed and did not require electronic payment of the new fees as is required for the preexisting motor fuel taxes. As with the prepaid 988 wireless charge discussed above, this appears to have been an oversight that prevents the department from using the same filing and payment process for the motor fuel fees as for the motor fuel taxes. In addition, the bill did not update the statute that is cross referenced in the

statute that requires electronic filing and payment of taxes and fees under such an agreement to clarify that the new fees are also subject to that requirement.

4. Motor fuel taxes.

During the 2021 legislative session, the General Assembly enacted H.B. 21-1322. When amending the statutes governing the administration of motor fuel taxes, the bill inadvertently eliminated an existing requirement that such taxes be paid electronically.

5. Per ride fees.

In addition to the issues identified by the department, SRC staff identified a related nonsubstantive omission. S.B. 21-260 created per ride fees to be imposed on prearranged rides requested and accepted through a transportation network company's digital network. The bill required electronic filing of reports and returns for and electronic payment of per ride fees but omitted the words "to be made" from the standard phrase "and payment required to be made".

Statutory Charge²

Section 2-3-902, C.R.S., authorizes the SRC to correct statutory provisions that are defective or eliminate contradictory rules of law. Therefore, if the SRC finds that the identified inconsistencies and omissions described above are defective or create contradictory rules of law, correcting them fits within the charge of the SRC.

Proposed Bill

If the SRC wishes to introduce legislation to address these issues, the proposed draft bill to do so is attached.

² The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

DRAFT
3.3.22

DRAFT

LLS NO. 22-0821.01 Jason Gelender x4330

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Dept Of Revenue Electronic Fee Filing & Payment"

A BILL FOR AN ACT

101 **CONCERNING THE CORRECTION OF TECHNICAL DEFECTS RELATING TO**
102 **REQUIREMENTS FOR ELECTRONIC FILINGS AND PAYMENTS MADE**
103 **WITH THE DEPARTMENT OF REVENUE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. The bill corrects several inconsistencies created by recent legislation in the existing requirements for filing reports and returns and making payments electronically with the department of revenue (department). Current law:

- Requires electronic filing of reports and returns for certain

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

taxes and fees that are filed with the department and electronic payment of certain taxes and fees that are paid to the department; and

- Authorizes the department to require electronic filing of reports and returns for other taxes and fees that are filed with the department and to require electronic payment of those taxes and fees.

During the 2021 legislative session, the general assembly:

- Created a new prepaid wireless 988 charge, but did not explicitly authorize the department to require electronic filing and payment of the charge as it does for the preexisting prepaid wireless 911 and prepaid wireless telecommunications relay service charges;
- Created new retail delivery fees, but authorized the department to require only that returns be filed electronically without also authorizing the department to require payments to be made electronically;
- Created new motor fuel fees, which will be collected at the same time and in the same manner as preexisting motor fuel taxes, but required only that new fee reports be electronically filed and did not require electronic payment of the new fees as is required for the preexisting motor fuel taxes;
- When amending the statutes governing the administration of motor fuel taxes, inadvertently eliminated an existing requirement that such taxes be paid electronically; and
- Created new motor fuel fees that are required to be collected under a motor fuel tax and fee agreement along with existing taxes imposed under such an agreement, but did not include those fees in the statute that is cross referenced in the statute that requires electronic filing and payment.

The bill corrects these errors and thereby clarifies that:

- Electronic filing of reports and returns for and electronic payment of motor fuel taxes and fees is required; and
- The department is authorized to require electronic filing of reports and returns for and electronic payment of the prepaid wireless 988 charge and the retail delivery fees.

The bill also makes a technical conforming change to the statutory language that requires electronic filing of reports and returns for and electronic payment of per ride fees that the general assembly created during the 2021 legislative session.

1 **SECTION 1.** In Colorado Revised Statutes, 39-21-119.5, **amend**
2 (2)(t), (2)(u), (4)(d), and (4)(k); and **add** (2)(v) as follows:

3 **39-21-119.5. Mandatory electronic filing of returns -**
4 **mandatory electronic payment - penalty - waiver - definitions.**

5 (2) Except as provided in subsection (6) of this section, the executive
6 director may, as specified in subsection (3) of this section, require the
7 electronic filing of returns and require the payment of any tax or fee due
8 by electronic funds transfer for the following:

9 (t) Any prepaid wireless telecommunications relay service charge
10 report required to be filed and payment required to be made pursuant to
11 section 29-11-102.7 (3); ~~and~~

12 (u) Any retail delivery fee or enterprise retail delivery fees return
13 required to be filed AND PAYMENT REQUIRED TO BE MADE pursuant to
14 section 43-4-218 (6); AND

15 (v) ANY PREPAID WIRELESS 988 CHARGE REPORT REQUIRED TO BE
16 FILED AND PAYMENT REQUIRED TO BE MADE PURSUANT TO SECTION
17 40-17.5-104 (2).

18 (4) Except as provided in subsection (6) of this section, on and
19 after August 2, 2019, electronic filing of returns and the payment of any
20 tax or fee by electronic funds transfer is required for the following:

21 (d) (I) Any gasoline or special fuel report required to be filed AND
22 PAYMENT REQUIRED TO BE MADE pursuant to section 39-27-105;

23 (II) Any road usage fee report or bridge and tunnel impact fee
24 report required to be filed AND PAYMENT REQUIRED TO BE MADE with a
25 gasoline or special fuel report pursuant to section 43-4-217 (7);

26 (k) Any clean fleet per ride fee and air pollution mitigation per
27 ride fee return required to be filed and payment required TO BE MADE

1 pursuant to section 40-10.1-607.5.

2 **SECTION 2.** In Colorado Revised Statutes, **amend** 39-27-303 as
3 follows:

4 **39-27-303. Tax and fees imposed.** The amount of the tax
5 imposed and collected on behalf of this state under an agreement entered
6 into under this part 3 ~~shall be determined as provided in~~ INCLUDES THE
7 TAX IMPOSED ON MOTOR FUEL BY part 1 of this ~~article~~ ARTICLE 27, THE
8 ROAD USAGE FEES IMPOSED BY SECTIONS 43-4-217 (3) AND (4), AND THE
9 BRIDGE AND TUNNEL IMPACT FEE IMPOSED BY THE STATEWIDE BRIDGE AND
10 TUNNEL ENTERPRISE AS AUTHORIZED BY SECTION 43-4-805 (5)(g.5).

11 **SECTION 3. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, or safety.